

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
SAN ANGELO DIVISION

UNITED STATES OF AMERICA

v.

RUBEN MAGALLAN, JR (3)

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CASE NO. 6:21-CR-00064-H-BU

**AMENDED¹ REPORT AND RECOMMENDATION ON PLEA OF GUILTY
BEFORE UNITED STATES MAGISTRATE JUDGE**

Defendant, RUBEN MAGALLAN, JR (3), by consent and under the authority of *United States v. Dees*, 125 F.3d 261 (5th Cir. 1997), appeared with counsel before the undersigned United States magistrate judge for the purpose of entering a plea of guilty under Rule 11 of the Federal Rules of Criminal Procedure.

Defendant was placed under oath and personally examined in open court by the undersigned concerning the subjects in Rule 11(b)(1) and the undersigned determined that Defendant understood each subject.

Defendant pleaded guilty, under a plea bargain agreement with the government, to Count One of the one-count Superseding Information charging Defendant with a violation of 21 U.S.C. § 846 - Attempted Distribution and Possession with Intent to Distribute Methamphetamine. After examining Defendant under oath, the undersigned magistrate judge finds the following:

1. Defendant, upon advice of counsel, has consented orally and in writing to enter this guilty plea before a magistrate judge subject to final approval and sentencing by the presiding district judge;
2. Defendant fully understands the nature of the charges, including each essential element of the offense(s) charged, and the associated penalties;

¹ The sole amendment to the initial Report and Recommendation is the addition of footnote 2 on page 2.

3. Defendant fully understands the terms of the plea agreement and plea agreement supplement;
4. Defendant understands all constitutional and statutory rights and wishes to waive those rights, including the right to a trial by jury and the right to appear before a United States district judge;
5. Defendant's plea is made freely and voluntarily;
6. Defendant is competent to enter this plea of guilty;
7. There is a factual basis for Defendant's plea of guilty²; and
8. The ends of justice are served by acceptance of Defendant's plea of guilty.

Based on the above, I recommend that Defendant's plea of guilty be accepted, that Defendant be adjudged guilty, and that sentence be imposed accordingly.

Although I have conducted these proceedings and accepted Defendant's plea of guilty, the United States district judge has the power to review my actions and possesses final decision-making authority in this proceeding. Thus, if Defendant has any objections to these findings or any other action of the undersigned, he is required to make those known to the United States district judge within fourteen (14) days of today.

The Clerk will furnish a copy of this Order to each of attorney of record.

Signed on: 6th day of April, 2022.



JOHN R. PARKER
UNITED STATES MAGISTRATE JUDGE

² The undersigned notes that there are two Factual Resumes in this case (Dkt Nos. 87 and 88), only one of which (Dkt. No. 88) is signed and stipulated to by Defendant. However, during the plea colloquy, Defendant, after consulting with his attorney, also stipulated to paragraph 5 of the Government's Factual Resume, which provides the requisite factual basis for Defendants plea. *See* Federal Rule of Criminal Procedure 11(b)(3).